

MAINE STATE LEGISLATURE

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EIGHTY - THIRD LEGISLATURE

House Document

No. 10

H. P. 21

House of Representatives, Jan. 18, 1927.

On motion of Mr. Piper of Jackman, tabled pending reference and 1000 copies ordered printed.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Chase of Cape Elizabeth.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

AN ACT to Incorporate the Maine Water Storage and Power
Transmission Company, for the Purpose of Interconnecting
Electric Power Plants in Maine and Regulating the Flow of
Maine Rivers.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Edward E. Chase of Cape Elizabeth, county
2 of Cumberland, state of Maine, and such other citizens of
3 Maine as the eighty-third Maine legislature may designate,
4 not less than three nor more than fifteen, their associates,
5 successors and assigns, are hereby made a body corporate
6 by the name of the Maine Water Storage and Power Trans-
7 mission Company, with all the powers, rights and privileges,

8 and subject to all the duties and obligations, incident to cor-
9 porations organized under the general laws of the state,
10 except as otherwise provided herein.

Sect. 2. *Location:* The principal office of this organiza-
2 tion shall be located in the city of Augusta, county of Ken-
3 nebec; and the corporation may establish such other offices
4 and places of business as it shall deem necessary.

Sect. 3. *Objects and Purposes:* The objects for which
2 the corporation is formed are: To create, by purchase, lease
3 or construction, or otherwise acquire a system of high volt-
4 age electric power transmission lines interconnecting elec-
5 tric power plants in Maine, and to operate and maintain
6 such lines; to buy electric power from and sell electric
7 power to the railroad and public utility companies of Maine
8 and the industrial companies owning the power plants with
9 which its lines are connected; to construct, purchase, lease,
10 operate and maintain dams for the storage of water within
11 the drainage areas of the Saco, Androscoggin, Kennebec
12 and Penobscot rivers for the purpose of regulating and
13 controlling the flow of water in said rivers and their tribu-
14 taries; to buy, lease or build electric power stations and to
15 operate and maintain the same; to transport by water or
16 otherwise logs, pulpwood and other materials; and to do all
17 other things necessary for the operation and maintenance
18 of the properties of the corporation, subject to the general
19 laws of the state and consistent with the existing rights of
20 other parties.

Sect. 4. *Right of Way on Highways: Eminent Domain for Pole Lines:* The corporation is hereby empowered for any of the purposes hereinbefore stated to set poles, extend wires and lay pipes, and to maintain and operate the same upon, along, over, under and across the streets, roads and ways in the state, subject to the provisions of the general law regulating such actions; and the corporation is empowered to take and acquire title to, by right of eminent domain, such lands and easements as may be necessary for the proper location of its transmission lines and necessary appurtenances, in the same manner and under the same conditions as set forth in chapter sixty-one, sections eleven to twenty-one, of the revised statutes of Maine and amendments thereto.

Sect. 5. *Right to Export Power:* The corporation shall have the right to transmit and sell outside of Maine such surplus of electric power as cannot be marketed profitably in Maine; and any individual, firm or corporation in this state having electric power for sale may sell such power to the Maine Water Storage and Power Transmission Company, any provisions in the charter of such corporations or amendments thereto and the provisions of revised statutes, chapter sixty, sections one and two notwithstanding.

Sect. 6. *Regulation and Supervision: Power Reserve for Maine:* Contracts under which power is transmitted outside of Maine shall not be made for a term of more than five years, and no such contract shall be made for a term

5 of more than one year without the approval of the Maine
6 Public Utilities Commission as to the amount of power and
7 period of time set forth in the contract. The supervision
8 of the Public Utilities Commission over term power con-
9 tracts shall be exercised to the end that this corporation
10 shall hold in reserve for use in Maine, free from any term
11 contract obligations with parties outside of Maine and avail-
12 able for delivery in Maine at least two thousand horse
13 power at all times. No such reserve shall be required at
14 times when no primary power is being sold outside of Maine.

Sect. 7. *Maine to Be Served First:* It is the purpose and
2 intent of this charter and the express declaration of the
3 incorporators that the people and the industries of Maine
4 shall have first call upon the supply of electric power upon
5 reasonable terms and at reasonable rates.

Sect. 8. *Exclusive Right of Exportation until July 1,*
2 *1932:* No other company, firm or individual shall hereafter
3 be granted the right to export electric power from Maine
4 until July 1, 1932, unless this charter sooner becomes void.

Sect. 9. *Mill Act to Apply: Right to Flow Public Lots:*
2 The corporation shall have all the rights of flowage and
3 other rights to which any owner of a water mill, power
4 dam or storage dam is entitled under the Mill Act, so called,
5 including the right to flow lands belonging to or held in
6 trust by the state; and if it appears necessary or desirable
7 to treat any watershed as a unit in the development and
8 operation of a water storage system, the corporation may

9 assign such right of flowage, and other rights pertaining to
10 river regulation, to a subsidiary corporation created or ac-
11 quired for that purpose; but only for so long as said sub-
12 sidiary remains wholly owned, or controlled by ownership
13 of at least ninety-five per cent of the voting stock, by the
14 Maine Water Storage and Power Transmission Company.

Sect. 10. *Right to Payment for Benefits of River Regu-
2 lation:* When the corporation, or any subsidiary company
3 formed under the provisions of the preceding section, shall
4 be operating a water storage reservoir, or water storage
5 reservoirs, in any drainage area, it shall have the right to
6 collect from every owner of a developed water power situ-
7 ated below such reservoir or reservoirs in that drainage
8 area, whether said water power is now developed or is de-
9 veloped at some future time, a toll, or charge, proportional
10 to the benefit derived by said developed water power by
11 reason of the construction and operation of such water stor-
12 age reservoir or reservoirs; and the total of such annual
13 tolls or charges collected in any such drainage area shall
14 be an amount sufficient to insure to this corporation and
15 its subsidiaries a net return of ten per cent on the cost of
16 its water storage reservoir system in that drainage area;
17 provided, however, that the corporation or its subsidiaries
18 shall not collect such a toll or charge without first guaran-
19 teeing to the water power owner to buy from him an amount
20 of primary electric power equivalent to the amount of water
21 made available to said water power owner by reason of the

22 storage reservoir system owned and operated by the corpora-
23 tion or its subsidiaries at a price sufficient to enable the water
24 power owner to earn a net return of not less than ten per cent
25 on the capital invested in the equipment necessary to utilize
26 the additional useful water and to deliver the electric power
27 to the transmission lines of the Maine Water Storage and
28 Power Transmission Company.

Sect. 11. *Description of Existing Conditions of Flow:*

2 The Public Utilities Commission, if requested by the incor-
3 porators or directors of this corporation, shall appoint a
4 board composed of five engineers, each of whom shall be
5 an engineer of good professional reputation with practical
6 experience in hydraulic engineering and familiar with con-
7 ditions of flow on one or more of the following named
8 rivers: The Saco, the Androscoggin, the Kennebec, and the
9 Penobscot; and said board shall prepare a description of
10 conditions of flow existing on said rivers and their prin-
11 cipal tributaries at the time of passage of this act in accord-
12 ance with recognized engineering standards and practices,
13 and shall report its determinations to the Public Utilities
14 Commission. This report, when approved by the Public
15 Utilities Commission, shall be prima facie evidence in the
16 courts of this state as to conditions of river flow prevailing
17 at the time of passage of this act.

Sect. 12. *Limited Objective:* In the development of water
2 storage the objective of the corporation shall be a regulating
3 capacity sufficient under normal conditions to assure a flow

4 of one cubic foot per second for each one square mile of
5 tributary drainage area for ninety-five per cent of the time;
6 but establishing this objective imposes no obligation upon
7 the corporation to attain it. The corporation shall not at
8 any time undertake any development of water storage above
9 any point on a stream where a condition of flow of one
10 cubic foot per second for each square mile of tributary
11 drainage area then prevails for 95 per cent of the time, with-
12 out the consent of every owner of developed water powers
13 situated at or above said point.

Sect. 13. *Option on Dead River Storage Site:* The cor-
2 poration shall have an option until January 1, 1929 on all
3 of the rights, title and interest of the state in the Dead River
4 storage reservoir site, so called, at a price to be determined
5 before January 1, 1928, by whatever authority the eighty-
6 third legislature may designate. The same authority shall
7 report to the eighty-fourth legislature what lands the state
8 owns or holds in trust which afford possible opportunities
9 for the erection of storage dams, stating the nature of such
10 lands, the amount of timber thereon, and other elements of
11 present and potential value.

Sect. 14. *Reasonable Rates:* The corporation shall buy
2 and sell power at reasonable rates and shall not discriminate
3 between those doing business with it, nor favor one party
4 more than another.

Sect. 15. *Public Utilities Commission May Act as Ref-*
2 *eree:* In case of dispute between the corporation and any

3 other party regarding any matters pertaining to river regu-
4 lation or the purchase and sale of electric power, the parties
5 may agree to refer the cause to the Public Utilities Com-
6 mission; and if requested, said commission shall act as
7 referee.

Sect. 16. *Reports to Public Utilities Commission:* The
2 corporation shall report to the Public Utilities Commission
3 every six months, stating the amount of power purchased
4 and generated by it, and the amount of power sold in Maine
5 and outside of Maine, and furnishing a summary of all
6 power contracts in force and an estimate of the supply of
7 and demand for power during the ensuing six months.

Sect. 17. *Ownership and Control:* The incorporators
2 hereinbefore named and those whom the legislature may
3 designate as incorporators shall devote their first efforts as
4 incorporators, officers, directors, or stock holders to secur-
5 ing subscriptions to the capital stock of the corporation
6 from the principal owners of developed and undeveloped
7 water powers in Maine. Such water power owners shall
8 have the right to subscribe, each in proportion to his owner-
9 ship in developed and undeveloped water powers in Maine,
10 for at least one half of the original authorized issue of voting
11 stock. In establishing such proportion an undeveloped water
12 power shall be considered as equivalent to one third of a
13 developed water power of the same capacity. The prin-
14 cipal owners of developed water powers shall be deemed to
15 be those who own developed water powers in Maine having

16 a capacity of two thousand horse power or greater, and of
17 undeveloped water powers, those who own undeveloped
18 water powers in Maine having a potential capacity of six
19 thousand horse power or greater. A list of the principal
20 water power owners, setting forth the proposed proportion
21 in which the original issue of voting stock is to be offered,
22 shall be submitted to the Public Utilities Commission for
23 its approval. When and if voting stock shall be offered for
24 sale to the public, citizens of Maine shall be given the first
25 opportunity to purchase said voting stock.

Sect. 18. *Management:* The personnel of the board of
2 directors shall be fairly representative of the owners of the
3 voting stock of the corporation. Each one of the four major
4 manufacturing industries of the state shall be entitled to
5 one representative on the board of directors.

Sect. 19. *Capitalization:* The corporation may issue cap-
2 ital stock in amount not to exceed ten million dollars, a part
3 of which may be preferred stock, the amount of which stock,
4 the proportion of preferred stock, and the privileges and
5 conditions of such preferred stock, if issued, to be fixed and
6 determined from time to time by the stockholders of the
7 corporation. The corporation is hereby authorized to issue
8 and sell its bonds or notes and to mortgage its property,
9 present or future, to secure the same, and to execute all
10 contracts necessary for those purposes.

Sect. 20. *First Meeting:* The first meeting of the cor-
2 poration may be called by any incorporator, by mailing, post-

3 age prepaid, a written notice naming the time and place of
4 such meeting, to each of the other incorporators, seven days
5 at least before the day of the meeting. Any member may
6 act at such meeting by written proxy.

Sect. 21. *Organization:* The organization of the corpo-
2 ration shall not be effective until at least one million dollars
3 of the capital stock shall have been subscribed for. Failure
4 to organize prior to January 1, 1829, shall result in this
5 charter becoming void on that date.

Sect. 22. *Special Provision:* The obligations of the cor-
2 poration shall be legal investments for savings banks in
3 Maine. The bonds and stocks of the corporation shall be
4 exempt from taxation by authority of the state or any politi-
5 cal sub-division thereof.

Sect. 23. *Not a Public Utility:* This corporation shall not
2 be considered a public utility within the meaning of chapter
3 fifty-five of the revised statutes, and the Public Utilities
4 Commission shall have no control over its business or affairs
5 except as expressly provided for herein; and no individual,
6 firm or corporation shall become a public utility by reason
7 of ownership in this corporation or doing business with it.

STATEMENT OF FACTS

This charter provides for a practical means for solving the water power problem in Maine. It establishes the policy of conservation of natural resources upon a basis of cooperation between the people and the industries of Maine, and between the industries themselves.

The provisions of the charter are predicated upon the following premises:

1. A large supply of electric power actually available is better than a potential supply now represented by wasted water.
2. Maine's future supply of cheap power lies primarily in the opportunities for river regulation by water storage; and few, if any, new power plants will be capable of generating hydro-electric power at a cost low enough to attract industries in Maine until river regulation is secured.
3. The future prosperity of industries in Maine is more important than the hope of development of new power plants by public utility companies.
4. The creation of an interconnected power system in Maine can more safely be committed to a cooperative enterprise in which many of the industries and people of Maine are joined than to any other organization that is capable of handling the job.
5. The successful consummation of the objects and purposes of the Maine Water Storage and Power Transmission Company will require the financial cooperation of a substantial number of the water power owners of Maine; and such cooperation cannot be secured unless the charter rights afford a real business opportunity, free from political influences, and subject to such regulation as may be essential to assure to Maine the first call upon the hydro-electric power generated in Maine.